

In re of Appln. No. 09/403,897

REMARKS

Claims 2-9, 28-35 and 37-39 presently appear in this case. Claims 9, 29 and 35 have been allowed and the remaining claims have been rejected. On May 30, 2003, an appeal brief was filed in this case. Subsequently, on June 11, 2003, an interview was conducted with the examiner in charge of this case, and modifications of claim 28 were discussed in order to overcome the outstanding rejection under 35 USC 112, first paragraph. The present communication is intended to insert such language so as to eliminate the 35 USC 112, first paragraph issue in this case.

The interview between examiner Canella and the undersigned attorney on June 11, 2003, is hereby gratefully acknowledged. The examiner stated that she had read the brief and would withdraw the grounds of rejections with respect to the mutiens of paragraph (b) and the fragments of (c). However, the examiner indicated that she still considered the term "leptin receptor agonists" to be too broad and the term "functional derivatives" to be too indefinite. Accordingly, we suggested at the interview deleting paragraph (e) about leptin receptor agonists and amending paragraph (f) to insert the definition of functional derivative as appears in the specification at page 14, lines 8-20. The examiner indicated

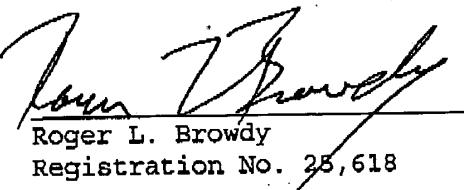
In re of Appln. No. 09/403,897

that if this were done, it should overcome the outstanding rejection under 35 USC 112, first paragraph.

The present amendment inserts the changes to claim 28 discussed at the interview and deletes claim 36. As the present amendment should eliminate the sole rejections of record and obviate the necessity of continuing with the appeal, good and sufficient reasons exist why it is necessary. It was not earlier submitted as this means of obviating the rejection was not determined until the telephone interview of June 11, 2003. Thus, the present amendment should be entered in accordance with 35 USC 1.116(c). In light of this amendment, reconsideration and withdrawal of all presently outstanding rejections, withdrawal of the appeal, and passage of the present application to issue are earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By 
Roger L. Browdy
Registration No. 25,618

RLB:gkw
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528

In re of Appln. No. 09/403,897

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office (703) 872-9307 on the date shown below.

Kirk Whitehead

Name

Kirk Whitehead

Signature

July 31, 2003

Date